

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

ROBERT J. LABONTE,

Plaintiff,

v.

UNITED STATES,

Defendant.

No. 18-1784C

(Judge Hertling)

**DEFENDANT’S UNOPPOSED MOTION FOR AN ENLARGEMENT OF
TIME TO FILE REPLY BRIEF AND RESPONSE TO CROSS-MOTION**

Defendant, the United States, respectfully requests that the Court grant a 21-day enlargement of time, from July 31, 2019, to and including August 21, 2019, to file our reply and response to Plaintiff’s Brief in Opposition to the Government’s Motion to Dismiss and Plaintiff’s Cross-Motion to Complete and Supplement the Administrative Record (plaintiff’s cross-motion or opening brief). ECF No. 36. This is our first request for an enlargement of time for this purpose. On July 24, 2019, plaintiff’s counsel’s office advised us that plaintiff consents to the proposed enlargement of time.

This is a military pay case. Plaintiff filed his opening brief on June 17, 2019. In addition to opposing our motion to dismiss, plaintiff requests that the Court stay consideration of our pending motion for judgment on the administrative record, and that the Court grant his cross-motion to complete and supplement the administrative record. *See* ECF No. 36 at 36. Plaintiff also requests that the Court order the deposition of Dr. Eric L. Doane. *Id.* at 35.

As a result of plaintiff’s cross-motion, we must not only reply to the substantive arguments that plaintiff makes in response to our dispositive motion, we also must respond to various procedural issues that plaintiff has now raised, including plaintiff’s contentions regarding

the administrative record, the proposed deposition of Dr. Doane, and plaintiff's request for a partial stay of briefing.

Prior to doing so, we must, among other things, confer at length with counsel for the Army regarding the various issues that plaintiff has raised in his cross-motion. This is especially necessary with respect to plaintiff's arguments concerning the adequacy of the administrative record, which appears on its face to relate to records maintained by the military.

In addition, undersigned counsel is responsible for *Readiness Management Support L.C. v. United States*, Fed. Cl. No. 19-1033C, a post-award bid protest that was commenced on July 17, 2019. That protest has consumed a significant portion of undersigned counsel's time since that date. Finally, undersigned counsel plans to be on leave from August 12 through August 13, 2019.

For these reasons, we respectfully request that the Court grant this motion for an enlargement of time.

Respectfully Submitted,

JOSEPH H. HUNT
Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.
Director

s/ Douglas K. Mickle
by Steven J. Gillingham
DOUGLAS K. MICKLE
Assistant Director

s/ *Richard P. Schroeder*

RICHARD P. SCHROEDER

Trial Attorney

Commercial Litigation Branch

Civil Division

U.S. Department of Justice

P.O. Box 480

Ben Franklin Station

Washington, D.C. 20044

Tel: (202) 305-7788

email: richard.schroeder@usdoj.gov

Dated: July 24, 2019